

**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
RENTON, WASHINGTON 98055-4056**

**Exemption No. 5288A**

In the matter of the petition of

**Air Transport Association of  
America**

**Regulatory Docket No. 26400**

for an exemption from §§ 121.314  
and 135.169(d) of the Federal  
Aviation Regulations

**AMENDMENT TO PARTIAL GRANT OF EXEMPTION**

By letters dated November 20, 1990, and February 7, 1991, Mr. Joseph D. Vreeman, Vice President, Engineering and Maintenance, Air Transport Association of America, petitioned for exemption from §§ 121.314 and 135.169(d) of the Federal Aviation Regulations (FAR) to permit up to a 36-month extension in the compliance time for the retrofit of Class C and D cargo compartment liners. The petition was on behalf of all affected operators. In response to this petition, Exemption No. 5288 was granted on March 18, 1991. That exemption permits the operation of airplanes that do not comply with §§ 121.314 and 135.169(d) after March 20, 1991, under a specified schedule, depending on the model. In addition, the exemption grants fleet wide relief for repairs. This relief is divided into two parts: (1) new repairs must comply with the regulations after September 20, 1991, and (2) all repairs must be in compliance after March 20, 1992.

By letter dated September 11, 1991, ATA petitioned the FAA to amend Exemption No. 5288. The petition requested that additional time be granted until November 5, 1991, to permit incorporation of new repairs that comply with the regulations.

**Section of the FAR affected:**

Section 121.314, as amended by Amendment 121-202, and § 135.169(d) as amended by Amendment 135-31, require, in part, that after March 20, 1991, all Class C and D cargo compartments greater than 200 cubic feet in volume, used on airplanes in air carrier, air taxi and commercial service, have liners constructed of fiberglass or material satisfying the test requirements of § 25.855, as amended by Amendment 25-60, or, in the case of liners approved prior to March 20, 1989, aluminum.

**Related Section of the FAR:**

Section 25.855(a-1)(1), as amended by Amendment 25-60, incorporates a new flame penetration test using an oil burner. This test is required of liner materials in Class C and D cargo compartments on affected airplanes, regardless of whether or not the material is fiberglass. These test standards are contained in Appendix F, Part III of Part 25.

**The petitioner's supportive information is as follows:**

In their original petition, ATA summarized the scope of the difficulties with repairs. It was noted at that time that, while vendors were optimistic at their ability to produce the both technically qualified as well as quantitatively sufficient repairs, work still needed to be done to assure timely incorporation into the fleet of new repair systems.

At this time three vendors have successfully developed high temperature adhesive patches. All of these repair systems, however, received approval too late to allow full delivery of sufficient quantities of the patches to ensure compliance with the September 20 deadline. A particular problem is distribution of the repair kits to line stations after the bulk orders have been received by the airline. A minimum of fourteen days is required to distribute kits to all domestic and foreign stations for large carriers. In some cases kit delivery is not expected until September 19; only one day prior to compliance deadline.

The ATA contends that airlines are making a good faith effort to comply with the terms of the exemption, and submits time lines for two large carriers to illustrate when orders were placed, when orders were received and the actual percentage of the order that was filled. This is a short term situation which will be very rapidly resolved as additional production capacity is brought on line by new suppliers.

An extension of the September 20 deadline will have no effect on overall fire safety, since the date for overall compliance of repairs of March 20, 1991, will not be affected. The percentage of patches that will not comply with the regulations after September 20, 1991, will remain a very low proportion of the total repairs in any cargo compartment. In addition, repairs in general are a small portion of the overall cargo compartment.

Airlines and manufacturers have made a significant effort to comply with this rule, including the formation of a special industry working group and an intensive effort to coordinate the certification of new repair systems, as well as the development of complying design features. These efforts have been successful, and the basic quality of the industry's compliance reflects the effort that has been expended.

The ATA submits that this petition is in the public interest. Denial of the requested relief would not result in the production or installation of parts any more quickly and would inevitably result in the unscheduled removal of aircraft from service. The resulting disruptions in the deployment of operator fleets and service to the public would have significant economic consequences. The original intent of the basic

rule, to require the replacement of sidewall and ceiling liner panels, is substantially complete.

The FAA finds, for good cause, that action on this petition should not be delayed by publication and comment procedures for the following reasons: (1) a grant of exemption would not set a precedent in that this matter involves circumstances of this industry's efforts to achieve compliance prior to the deadline established by the regulation, (2) delay in acting on the petition would be detrimental to the operators represented by the petitioner in that it could result in removal from service of aircraft, and (3) the reasons for this petition are identical to those for which Exemption 5288 was issued.

**The Federal Aviation Administration's analysis/summary is as follows:**

As noted by the petitioner, repairs which comply with the requirements of § 121.314 have only recently been developed.

The primary compliance problem with the existing repairs is the performance of the repair when subjected directly to the burner flame. The primary function of the repair is to provide an air barrier and inhibit any increased ventilation through the compartment due to the damage. The repair methods currently used would therefore be satisfactory if the flame does not impinge directly on the repair. Over the long term, it must be assumed that a fire could impinge directly on the repair. The repair should, therefore, provide the same level of protection as the basic liner panel. In issuing Exemption No. 5288, the FAA considered that a reasonable amount of time was warranted to implement recently developed repair methods into the fleet. The terms of Exemption No. 5288 permit a one year extension in the compliance date of Amendments 121-202 and 135-31 to upgrade all repairs in cargo compartments, regardless of when they were initially made. In order to facilitate the introduction of new repairs into the fleet, only a six month extension was granted, after which any repair made must comply with the regulation. The six month time was based on several factors, including the repair kit suppliers' stated ability to provide the necessary number of kits to the operators. In reviewing the petitioners supporting information the FAA notes that this has not developed as forecast. Even when parts were ordered in a timely manner, it has not always been possible to receive and distribute kits such that an operator's entire route structure is covered. Nonetheless, it does appear that many airlines were able to obtain sufficient quantities of repair kits to meet the September 20, 1991, deadline. The petitioner has submitted detailed information from two carriers, United Air Lines and Delta Air Lines, that indicate that those carriers have made a good faith effort to meet the deadline in the exemption, but due to logistical factors, cannot ensure that sufficient kits will be available to use on all new repairs. No information has been received by the FAA from other carriers, either directly or through ATA, indicating that a similar compliance problem exists. Based on the information provided to date, the FAA considers relief warranted only for United and Delta.

The ATA request for an extension until November 5, 1991, was based on

fleet wide relief, assuming that carriers other than United and Delta would have to make use of the extension. Since this is apparently not the case, the FAA can use the information provided by Delta and United to determine an acceptable extension. The FAA notes that both United and Delta plan to have kits received shortly after the compliance deadline for new repairs, and it is the distribution of kits that makes a time extension necessary. Therefore, allowing for two weeks distribution time, and even assuming kit availability is delayed over the current forecast, the FAA considers that a 30 day extension is sufficient to meet the safety intent of the regulation, while at the same time not disrupting scheduled service.

In consideration of the foregoing, I find that a an amendment to Exemption No. 5288 is in the public interest and will not affect the level of safety provided by the regulations. Therefore, pursuant to the authority contained in §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), the petition of the Air Transport Association of America to amend Exemption No. 5288 is hereby granted with the following provisions:

1. This amendment is limited to United Air Lines and Delta Air Lines.
2. Repairs of the cargo liners of transport category airplanes made after October 20, 1991, must comply with § 121.314 as adopted by Amendment 121.202.

All other provisions of Exemption 5288, together with its conditions and limitations, remain the same and are applicable to this exemption. This amendment is part of, and shall be attached to, Exemption 5288.

Issued in Renton Washington, on

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Darrell M. Pederson, Acting Manager,  
Transport Airplane Directorate  
Aircraft Certification Service, ANM-100

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April 30, 2003